

Statement on S. Res. 400

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Before

Committee on Rules and Administration

of the

United States Senate

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Mr. Chairman:

I appreciate the opportunity to testify today on S. Res. 400, which would establish a new standing Senate Committee on Intelligence Activities. I will limit my comments to those aspects of this resolution which directly affect the ability of the Central Intelligence Agency or the Director of Central Intelligence to fulfill our respective responsibilities.

Mr. Chairman, the Central Intelligence Agency welcomes strong and effective congressional oversight. We have a great deal to gain from it. We gain the advice and counsel of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain this support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services, through effective Executive and congressional oversight. Good oversight will insure that the intelligence agencies operate as the Government-- and the nation--wish them to. But in establishing this accountability, I believe the Congress must also insure that oversight enhances, rather than hinders, the vital operations of our intelligence agencies. Although there is much to be admired in S. Res. 400, I am concerned that certain sections of this resolution would unnecessarily hinder our foreign intelligence effort.

One of the principles which the President stated in his 18 February 1976 message to Congress was that Congress should seek to centralize the responsibility for oversight of the foreign intelligence community. The past year has witnessed the antithesis of this. While eight congressional

committees (including the select committees) were formally involved in this oversight process, eleven other committees or subcommittees made oversight claims and were given access to sensitive intelligence information. This rapidly broadened access to sensitive material has contributed substantially to the past year's unprecedented number of leaks of sensitive foreign intelligence information, in addition to placing a heavy burden on senior foreign intelligence officials in carrying out their regular duties.

As Director of Central Intelligence, I seek to cooperate to the maximum extent possible with the Congress. I want Congress to be a consumer of intelligence. CIA provides a daily report on foreign developments to the congressional committees directly concerned with our national defense and foreign policy. Intelligence Community members provide background intelligence information on specific events to any Member of Congress who requests it and to committees on matters within their jurisdiction. In this way, Congress shares in the fruits of our intelligence effort, and is better able to exercise its responsibilities to provide for the common defense and share in the formulation of American foreign policy. However, I do not believe that details of intelligence operations can be spread this widely, for guaranteed secrecy remains a prerequisite to success in many of our activities. Chinks in our adversaries' armor are rapidly repaired when made public. Our technical capabilities are nullified, and our own officers as well as foreign human sources are senselessly endangered. And so I urge concentrated oversight. I am not alone in advancing this position. The Government Operations Committee report on S. Res. 400 states:

"The Committee was ... very aware of the need to reduce the proliferation of committees [involved in oversight of CIA]. This resolution has been drafted with this concern in mind."

While S. Res. 400 makes significant strides toward concentrating oversight by altering the charters of other relevant committees to exclude intelligence activities, it does not, by itself, accomplish this objective. While the Senate Select Committee is winding up its affairs, reducing by one the number of committees involved in intelligence oversight, the Senate Budget Committee has established an intelligence unit and has begun requesting access to sensitive information. It is my hope that the interests of the Budget Committee can somehow be satisfied through the essential role of the Appropriations Committee, which has traditionally involved oversight of CIA. In addition, under Section 662 of the Foreign Assistance Act of 1961 (the Hughes-Ryan amendment), information regarding covert action is reported to three committees of the Senate--Appropriations, Armed Services, and Foreign Relations. Reports are also made to the corresponding committees of the House. S. Res. 400 will not affect these reporting requirements. In his message the President recommended that Section 662 be modified.

Section 7(c)(2) of S. Res. 400 further diminishes the effect of the proposed Senate Rule XXV changes on consolidated oversight. This section expressly permits the proposed committee and its members to disclose any committee information to any other Senate committee or individual Senator.

Furthermore, any Member who learns information in this manner may also disclose it to any other Senator. While such a provision is arguably necessary for substantive intelligence, I can see no justification for unlimited dissemination of information about this Agency's sources and methods. Section 7(c)(2) negates a major advantage of consolidated oversight--halting the proliferation of sensitive operational information throughout the Congress--and in my opinion must be tightened up considerably.

I do not intend to become involved in any committee debates over the jurisdiction of various intelligence programs or activities. That is a matter for you to resolve. My concern is over the proliferation of sensitive intelligence operational information (information concerning intelligence sources and methods) throughout the Congress. I strongly urge the Senate, in considering the oversight issue, to concentrate oversight of foreign intelligence activities. If a new committee is established, perhaps the interests of other committees might be accommodated by reserving seats on the intelligence committees for members of other relevant Senate committees, but again that is a matter for the Senate to resolve.

Mr. Chairman, the second of my major concerns regarding S. Res. 400 relates to Sections 7(a) and (b) which assert the authority of the proposed committee to disclose information provided by the Executive branch, even over the objections of the President.

The President addressed this point in his February 18, 1976, message on foreign intelligence activities to the Congress. The President stated:

"Any foreign intelligence information transmitted by the Executive Branch to the Oversight Committee, under an injunction of secrecy, should not be unilaterally disclosed without my agreement. Respect for the integrity of the Constitution requires adherence to the principle that no individual member nor committee, nor single House of Congress can overrule an act of the Executive. Unilateral publication of classified information over the objection of the President, by one committee or one House of Congress, not only violates the doctrine of separation of powers, but also effectively overrules the actions of the other Houses of Congress, and perhaps even the majority of both Houses."

Aside from the constitutional aspects, sections 7(a) and (b) create other serious problems. Much information the Executive branch would furnish the proposed committee is protected from disclosure by statute. Disclosure of this material by the Committee or the Senate might in some circumstances risk a violation of these laws. These sections would also create a serious conflict in responsibilities for the Director of Central Intelligence. The DCI must cooperate with the Congress, but if he provided intelligence sources and methods information with no assurance in return that it will be protected, he would be violating his statutory responsibility--imposed on him by Congress--to protect this information from unauthorized disclosure. Moreover, on a practical level, acceptance of this section would significantly reduce the chances that the Executive and Congress could work together constructively

in the intelligence field. I believe this section would immediately place the Executive branch and the committee in an adversary relationship, and could impede the flow of sensitive information to the committee. Such a relationship would detract from good oversight and would not contribute to good intelligence.

I believe what the Senate and this country want is good oversight. Public disclosure is not synonymous with good oversight. The proposed committee can do its job responsibly and conscientiously, giving maximum protection to the rights of American citizens, and yet not disclose sensitive information to the public--and hostile foreign intelligence services--in the process. It is my recommendation that the sections permitting the Senate to disclose Executive branch information over the objection of the President be deleted from S. Res. 400. I am confident that this problem can be solved informally to the mutual satisfaction of the Agency and committee concerned.

My third major concern with S. Res. 400 lies in Section 11. This section would establish a Senate procedure which would compel the passage of a periodic authorization bill for funds for the activities of this Agency, despite Section 8 of the Central Intelligence Agency Act of 1949, which provides continuing authorization authority for CIA. One purpose of Section 8 was to protect against the disclosure of the CIA budget, in recognition of the danger inherent in budget disclosure to our foreign intelligence effort. An annual authorization bill reported from the new committee would reveal at least the budget total. Both the Senate and the House have in the past two years voted, by substantial margins, to keep intelligence budgets secret. I will provide the committee a memorandum on the consequences of budget disclosure.

It is my belief that this problem can be solved to the satisfaction of both the Senate and the intelligence agencies. The Congress now, through the appropriations committees, annually subjects the CIA budget to thorough and total examination and determines the level and nature of our expenditures. No budget information is withheld. The purpose sought to be advanced by an authorization requirement is to give the proposed oversight committee a means to influence the size and program content of the intelligence budgets. According to the Government Operations Committee report on S. Res. 400, an authorization requirement "should assure a regular review of each agency's intelligence activities, its efficiency and its priorities." This Agency would welcome such a review, but does not believe an authorization requirement is necessary. We now brief the CIA subcommittees of the House and Senate Armed Services Committees on our budget. We would not oppose a requirement to brief the proposed committee on the CIA budget, and a requirement that the intelligence committee file a classified letter containing its CIA budget recommendations with the Appropriations Committee. Such a plan would insure that the committee was briefed on the Agency budget, that it considered it carefully and that the Appropriations Committee received its recommendations, thus satisfying the objective of an annual authorization without disclosing the budget.

Finally, I would like to comment on the wisdom of combining in one committee jurisdiction of both domestic and foreign intelligence activities. I believe it inadvisable to add jurisdiction of the FBI's intelligence activities to the otherwise solely foreign intelligence jurisdiction of the proposed



committee. As Attorney General Levi testified before the Government Operations Committee, the FBI's intelligence activities relate to law enforcement. The counterintelligence activities of the Bureau relate to enforcement of the espionage and related laws. Although certain intelligence activities of the FBI and foreign intelligence agencies may be similar, the constitutional bases, standards, and problems involved are so different that it would appear more suitable that all FBI activities be overseen by a committee other than the one concerned with foreign intelligence activities. Much has been said about keeping foreign intelligence and law enforcement activities separated within the Executive branch. I believe the same principle should apply to the Congress in the exercise of its oversight responsibilities.

As a former Member of Congress, Mr. Chairman, I am particularly anxious that relations between the Congress and the intelligence agencies proceed in a cooperative and harmonious spirit which will contribute to increased efficiency of our foreign intelligence effort, while yielding complete protection for the rights of American citizens. It will be my privilege as Director of Central Intelligence to serve the Congress by providing intelligence on substantive developments which will aid congressional decision-making, and to be totally accountable to our designated oversight committees. What I ask in return is that oversight be concentrated, and that sensitive information be protected, thus facilitating our total cooperation. Thank you.